IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 11TH JANUARY 2007 / 21ST PAUSHA 1928

CRP.No. 750 of 2006()

AGAINST THE ORDER IN IA.3017/05,73/06 IN
AS.6/2002 of ADL.SUB COURT, THALASSERY

.....

REVN. PETITIONER: RESPONDENTS 2 TO 10/DEFENDANTS 2 TO 10

---

1. K.K.RAJEEVAN, S/O.GOPALAN,
   AGED 40 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

2. C.K.DHARMARAJAN, S/O.GOVINDAN NAMBIAR,
   AGED 44 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

3. K.P.SATHYAN, S/O.CHATHUKUTTY PANIKKER,
   AGED 43 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

4. V.MADHUSOODANAN, S/O.KUMARAN,
   AGED 47 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

5. K.MOHANAN, S/O.KUNHUNDAN,
   AGED 42 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

6. V.MANOHARAN, S/O.KUMARAN,
   AGED 44 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

7. C.PADMANABHAN, S/O.PADMANABHAN NAMBIAR,
   AGED 42 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

8. C.GANGADHARAN, S/O.GOVINDAN,
   AGED 47 YEARS, PAZHASSI AMSOM,
   KAYANI DESOM.

9. K.REMESHAN, S/O.BALAN,
AGED 39 YEARS, PAZHASSI AMSOM,
KAYANI DESOM.

BY ADV. SRI.K.V.PAVITHRAN
SRI.JAYANANDAN MADAYI PUTHIYAVEETTIL

RESPONDENTS: PETITIONER & IST RESPONDENT/APPELLANT & 1ST RESPONDENT

---

1. T.V.GANGADHARAN NAMBIAR,
S/O.SANKARAN NAMBIAR,
AGED 74 YEARS, PENSIONER, PAZHASSI AMSOM,
KAYANI DESOM, P.O.KAYANI, THALASSERI TALUK.

2. THE SECRETARY,
JNANODAYAM VAYANASALA, PAZHASSI AMSOM,
KAYANI DESOM, P.O.KAYANI,
THALASSERI TALUK.

R1 BY ADV. SRI.K.V.SOHAN
SRI.POOVAMULLE PARAMBIL ABDULKAREEM

THIS CIVIL REVISION PETITION HAVING BEEN FINALLY HEARD ON 11/01/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

M.SASIDHARAN NAMBIAR,J.

C.R.P .NO. 750 OF 2006

Dated 11th January 2007

O R D E R

Petitioners are respondents 2 to 10 in A.S.6/2002 on the file of Sub court, Thalassery. They were defendants 2 to 10 in O.S.206/96 on the file of Munsiff court, Kuthuparamba. First defendant/first respondent is the Secretary Jhanodhayam Vayanasala. First respondent was represented by second petitioner herein before the trial court. Petitioners did not appear and contest the appeal. Trial court granted decree for recovery of possession, but did not grant decree for damages for use and occupation. Appellate court allowed the appeal to that extent of granting damages for use and occupation. First respondent appellant filed I.A.3017/05 to amend the judgment and decree, to make the decree granted not only against "respondent" but against "respondents". Another application was filed to dispense with notice to respondents/defendants in the application stating that they did not contest the appeal. Learned Sub Judge

allowed both applications by cryptic orders "allowed" without a speaking order. This revision petition is filed by respondents 2 to 10 challenging those orders. Learned counsel appearing for petitioners and first respondent were heard.

2. The serious dispute between the parties is whether a decree for damages was claimed and granted against first respondent alone or against all the defendants. In such circumstances, before allowing the amendment making the decree as against defendants 2 to 10 also, learned Sub Judge should have heard the petitioners herein. Order passed by the learned Sub Judge in I.A.3017/05 is set aside. I.A.3017/05 is restored and remanded back to learned Sub Judge for fresh disposal in accordance with law. As first petitioner herein is second respondent in A.S.6/02, there is no necessity to issue notice to first respondent in the appeal. Parties are directed to appear before the learned Sub Judge on 14/2/2007. Objections, if any, is to be filed on or before that day and learned Sub Judge to pass appropriate order after hearing both sides expeditiously and at any rate within three months from the date of appearance.

Revision petition is disposed.

M.SASIDHARAN NAMBIAR,
JUDGE.

uj.